

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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AW INDUSTRIES, INC.,	:	
	:	
Plaintiff,	:	ORDER ADOPTING
	:	REPORT AND
-against-	:	<u>RECOMMENDATION</u>
	:	
SLEEP WELL MATTRESS, INC.,	:	07-CV-3969 (SLT)(JMA)
	:	
Defendant.	:	
-----	X	

TOWNES, United States District Judge:

On September 21, 2007, plaintiff AW Industries, Inc. ("AW"), which manufactures and sells mattresses and related products under the trademark, "SLEEPWELL," commenced this action pursuant to the Lanham Act, alleging that defendant Sleep Well Mattress, Inc. ("SWM") infringed its trademark. On October 5, 2007, AW served SWM with a summons and complaint through the New York Secretary of State. SWM never answered or moved to dismiss the complaint and, in March 2008, AW moved for a default judgment. This Court subsequently referred that motion to Magistrate Judge Azrack for a Report and Recommendation ("R&R").

On January 30, 2009, Magistrate Judge Azrack issued her R&R, recommending that (1) default judgment be entered against SWM; (2) that AW be awarded a total of \$321,794.26; and (3) that AW's application for injunctive relief be granted. The R&R specifically advised SWM that any objections to the R&R had to be filed within ten days of SWM's receipt thereof. R&R at 15. According to the docket sheet, AW served a copy of the R&R on SWM by certified mail on February 4, 2009. As of this date, no objections have yet been filed.

A district court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Nonetheless, when no objections are filed, many

courts seek to satisfy themselves “that there is no clear error on the face of the record.” Fed. R. Civ. P. 72(b) advisory committee note (1983 Addition); *see also Edwards v. Town of Huntington*, No. 05-CV-339, 2007 WL 2027913, at *2 (E.D.N.Y. July 11, 2007). Although not required to do so, this Court has reviewed the record and is satisfied that there is no clear error. Accordingly, this Court hereby adopts Magistrate Judge Azrack’s R&R in its entirety

CONCLUSION

For the reasons stated above, this Court adopts Magistrate Judge Azrack’s Report and Recommendation dated January 30, 2009, in its entirety as the opinion of this Court. *See* 28 U.S.C. § 636(b)(1). The Clerk of Court is directed to enter judgment against defendant Sleep Well Mattress, Inc., in the amount of \$321,794.26. The Court shall enter herewith an order granting plaintiff AW Industries, Inc., the injunctive relief recommended by Magistrate Judge Azrack.

SO ORDERED.

s/ SLT

SANDRA L. TOWNES
United States District Judge

Dated: February 26, 2009
Brooklyn, New York